

UTTARANCHAL HIGHER JUDICIAL SERVICE RULES, 2004 WITH 2011 AMENDMENT

UTTARANCHAL HIGHER JUDICIAL SERVICE RULES, 2004

1. Short title and Commencement - (i) These Rules may be called the Uttaranchal Higher Judicial Service Rules, 2004

(ii) These Rules shall come into force with effect from the date of Publication in the official Gazette of Uttaranchal State.

2. Definition –

- (a) "Advocate" means Advocate defined in the Advocate Act, 1961;
- (b) "Chief Justice" means Chief Justice of High Court of Uttaranchal;
- (c) "Civil Judge (Senior Division)" means the Judge appointed under The Bengal, Agra and Assam Civil Courts Act, 1887;
- (d) "Court" means the High Court of Uttaranchal;
- (e) "Government" means the Government of Uttaranchal;
- (f) "Governor" means Governor of Uttaranchal;
- (g) "Judge" means Judge of the High Court of Uttaranchal;
- (h) "The Service" means the Uttaranchal Higher Judicial Service;
- (i) "Suitability test" means oral test which the Court deems fit.

Part-I

Cadre

3. Status of the Service -The Uttaranchal Higher Judicial Service is a State Service comprising class I posts.

4. Strength of the Service -(i) The service shall consist of single cadre comprising the post of District and Sessions Judge and Additional District and Sessions Judges;

(ii) The strength of the Service shall be such as may be determined from time to time by the Governor in consultation with the Court.

(iii) The Strength of the Service, shall, unless varied by orders passed in this behalf, be as specified in Appendix "A".

(iv) The Governor may, from time to time, in consultation with the Court leave any vacancy in the service unfilled or hold in obedience.

Part-II

Recruitment

5. Source of Recruitment-The recruitment to the service shall be made-

- (a) By promotion from amongst in cadre of Civil Judge (Senior Division);
- (b) By selection through limited competitive examination from amongst Civil Judges (Senior Division) cadre;

(c) By direct recruitment of Advocates of not less than seven years standing on the first day of January of the year in which the notice inviting applications is published.

6. Quota-The quota for various sources of recruitment shall be-

(a) Fifty percent by promotion by amongst in Civil Judges (Senior Division) on the basis of principle of merit-cum-seniority.

(b) Twenty five percent by promotion strictly on the basis of merit through limited competitive examination of Civil Judges (Senior Division) having not less than five years Service as Civil Judges (Senior Division), and

(c) Twenty five percent by direct recruitment from amongst the eligible Advocates on the basis of selection test comprising the written examination and viva-voce test;

Provided that where the number of vacancies to be filled in by any of these sources in accordance with the quota is in fraction, up to half shall be ignored and the fraction of more than half ordinarily be counted as one.

7. Reservation of posts for scheduled caste etc.-Reservation to posts in the service for candidates belonging to Scheduled Castes, Scheduled Tribes, Other Backward Classes and others shall be in accordance with the orders of the Government for reservation in force and approved by the Court at the time of direct recruitment.

8. Number of Appointments to be made-(i) The Court, shall, time to time, but not later than three years from the last recruitment, fix the number of vacancies to be taken at the recruitment, keeping in view the existing and likely to occur vacancies in the next two years.

Explanation - The limitations of three years mentioned in the forgoing sub-rule shall not be applied to the first recruitment held after the enforcement of these rules.

(ii) If at any selection the number of suitable selected direct recruits available for appointment is less than the number of vacancies determined by the Court to be taken from that source, the court may increase corresponding the number of vacancies to be taken by promotion from the Civil Judge (Senior Division) Cadre;

Provided that the number of vacancies filled in the forgoing sub-rule shall be taken into consideration while fixing the number of vacancies to be allocated to the quota of direct recruits at the next recruitment and the number of vacancies for direct recruitments may be raised accordingly; howsoever, that the percentage of direct recruits in the services does not in any case exceed 25 percent of the total strength of the service.

Part-III

Procedure for direct recruitment

9. Nationality -A candidate for recruitment to the service must be a citizen of India under Part II of the Constitution.

10. Proficiency of English and Hindi-A candidate for recruitment to the service must possess a thorough knowledge of Hindi (in Devnagri Script) and English.

11. Age-A candidate for direct recruitment must have attained the age of 35 years and must not have attained the age of 45 years and must not have attained the age of 45 years on the first day of January of the year in which the notice inviting applications in published;

Provided that candidates belonging to Scheduled Caste, Scheduled Tribes and such other categories may be notified by the Government from time to time shall be entitled for relaxation in age according to rules are applicable at the relevant time.

12. Character-The character of a candidate for direct recruitment must be such as to render him suitable in the opinion of the Governor, in all respect for appointment to the service.

13. Marital status-A candidate who has more than one living spouse at a time shall not be eligible for appointment.

14. Physical Health-

(i) The candidate selected for direct recruitment for appointment shall be required to be examined by Medical Board especially constituted for the purpose, who will certify the mental and bodily fitness of the candidate for efficient performance of duties. Any candidate not found fit by Medical Board shall not be entitled appointment.

(ii) Any candidate not found fit by the Medical Board shall have a right to be re-examined by the another Medical board especially constituted by the Director, Medical & Health & Family planning, Uttaranchal whose decision in shall be final.

15. Direct recruitment-

(i) Application for direct recruitment to the service shall be invited by the court through advertisement to that effect in at least two leading newspapers having wide circulation in the State.

(ii) The syllabus for competitive examination shall as prescribed in Appendix "B".

16. Fee- The applications shall be deposited with requisite fee. Any application shall liable to be rejected, it made without the requisite fee.

17. Procedure of selection-

(i) That the examination shall be conducted by the Court through the Chief Justice or committee constituted by the Chief Justice for the purpose.

(ii) That the Court or the Committee, as the case may be, may short list the candidates for selection test in the manner by Preliminary examination or in any other manner as it thinks fit.

(iii) That keeping in view the number of vacancies as list of vacancies shall be prepared by the committee on the basis of written examination for viva-voce. Normally candidates thrice the number of vacancies should be called for viva-voce.

(iv) The Chief Justice shall constitute a Board comprising the judges of the Court and any other person having professional ability for judging the personality. After interview/viva-voce a final list of candidates shall be prepared by the committee constituted for conducting the examination and merit list shall be prepared by adding the marks of written test and viva-voce.

Part-IV

Procedure for recruitment by promotion

18. Limited competitive examination-The applications for recruitment through limited competitive examination of eligible Civil Judge (Senior Division), who have not been promoted under Rule 20 shall be invited by the Court through the District Judge or through the Head of the officer or Head of the Department as the case may be under whose subordination the candidate works and shall be made in the form, prescribed for that purpose.

19. Scrutiny and Test-

(i) The Court or the Committee constituted by the Chief Justice may get these applications scruitnized and may hold the examination.

(ii) Provision of Rules 17 shall apply *mutatis mutandis* for conducting the limited competition. The syllabus is given in Appendix "C".

(iii) In case eligible Civil Judge (Senior Division) are not available for the limited competitive examination or the Court is of the opinion that the Civil Judge (Senior Division), who appeared have not qualified the test, such remaining vacancies may be reverted temporarily to the Uttaranchal Judicial Service and may be filled through Promotion amongst the officers of Uttaranchal Judicial Service as provided under Rule 20, which shall be adjusted later on.

Part-V

Promotion of members of the Uttaranchal Judicial Service

20. (i) The Chief Justice or Committee constituted by the Chief Justice shall, after examining the record of the Officers make a preliminary selection of the Officers on the basis of principle of merit-cum-seniority. The list shall contain the names of Officers twice the number of vacancies required to be filled by promotion of the members of the Uttaranchal Judicial Services.

The Chief Justice or Committee nominated by the Chief Justice shall call the members of Uttaranchal Judicial Services of the list prepared in the foregoing rule for the suitability test and after the suitability test, the Chief Justice or Committee shall prepare a list of Officers found suitable for the promotion.

Part- VI

21. Forwarding of Select List- List of selected candidates/officers prepared under Rule 17, 18 & 19 by the court shall be forwarded to the Governor for appointment.

22. Appointment-

(i) The Governor shall on receipt of the list of candidates make appointment to the service but in case of the direct recruitment after character verification and medical examination.

(ii) Appointments to the service shall be made on 4 point Rota system, the first and second vacancies shall be filled from the promotion of officers of the Uttaranchal Judicial Service, the third vacancy shall be filled up from the officers by competitive examination of Uttaranchal Judicial Service, the fourth vacancy shall be filled from the list of direct recruits (and so on).

23. Probation-

(i) The candidate shall on appointment be placed on probation for period of two years: Provided that in appropriate cases the Court may extend the period of probation for one more year.

(ii) If it appears to the court at any time during or at the end of the period of probation, or at extended period of probation, as the case may be, that a probationer has not made sufficient use of his opportunities or has otherwise failed to give satisfaction, it may make suitable recommendations to the Governor whereupon the Governor may revert the probationer to his substantive post, if any, or if he does not hold a lien on any post, his services may be dispensed with.

(iii) A person whose services are dispensed with or who is reverted under sub-rule (3) shall not be entitled to any compensation.

24. Confirmation-A probationer shall be confirmed in his appointment at the end of his period of probation or at the end of the extended period of probation if the Court is satisfied that he is fit for confirmation.

25. Appointment and confirmation to the notified in Gazette-All appointments and confirmations under these rules shall be notified in the State Gazette.

26. Seniority-The seniority of members of the service shall be determined as follows:-

The officers promoted from Uttaranchal Judicial Service shall be placed at serial no. 1 & 2 according to their merit. Officer selected from limited competitive examination shall be placed at serial no. 3 according to merit and officer selected from direct recruitment according to merit shall be placed at serial no. 4 in the seniority list. Likewise the officers promoted from Uttaranchal Judicial Service shall be placed at serial No. 5 & 6, officer selected from limited departmental examination shall be placed at serial no. 7 according to his merit and officer selected from direct recruitment shall be placed at serial no. 8. Similarly the Officers selected from direct recruitment shall be placed at serial Nos. 12, 16, 20, 24 and so on.

Part-VII

Miscellaneous Provisions

27. Grant of the Selection Grade and Super time Scale-

(i) 25% of the cadre post of the Higher Judicial service, who have put in not less than five years of service in the cadre the court may grant the selection grade amongst the members of the service on the basis of merit-cum-seniority.

(ii) Super time scale will be available to the extent of 10 percent of the strength of the Cadre to the Selection Grade officers who have put in not less than three years of Continuous service in Selection Grade.

28. Scale of pay-The scale of pay admissible to the persons appointed the service, whether in substantive or officiating capacity or as a temporary measure, shall be as shown in Appendix "D".

29. Fixation of pay-

(i) The initial pay of an officer promoted to the service from the Uttaranchal Judicial Services shall be fixed at the stage next above the amount equal to the officers pay, or presumptive pay in the ordinary time scale of the Uttaranchal Judicial services, plus an increase at the rate of one increment in the time-scale of the Higher Judicial service for every three years of service in the Uttaranchal Judicial Services subject to a minimum increase of ₹ 600/-

Provided that when with the prescribed increase as aforesaid, the figure arrived at corresponds to stage in the time scale for the service, the pay shall be fixed at that stage and not at the next higher stage.

(ii) In addition to the pay, which may be drawn by a member of the Service under this rule, he shall while holding a special post, receive the special pay also as may be admissible for such post.

30. Regulation of other matters-In regards to the matters not specifically covered by these rules or by special order, persons appointed to this service shall be governed by the rules, regulations and orders applicable generally be Government Servants serving in connection with the affairs of Uttaranchal State.

31. All the officers allocated by the Central Government *vide notification no. 27/2/2000* S.R. (s) dated 22.09.2003 (Order no. 3/2003) and other officers appointed by the Government

before commencement of these rules thereafter, shall be deemed to have been appointed in the regular cadre of Higher Judicial Service in the State of Uttaranchal.

32. The Uttar Pradesh Higher Judicial Service Rules, 1975 is hereby repealed in its application to the State of Uttaranchal.

APPENDIX "A"

[See Rule 4 (3)]

The Strength of the Service is as follows:-

1.	District Session Judge	36
2.	Fast Track Court's Additional District & Sessions Judge	36
3.	Special Posts (Deputation)	20

Note:- The posts created in Higher Judicial Service Cadre by the Government from time to time after the Commencement of these Rules shall be counted towards the strength of service.

APPENDIX "B"

[See Rule 4 (3)]

PAPERS- Direct recruitment of H.J.S.

Paper No. 1 100 Marks

It will be divided into two parts:-

Part-1

50 Marks

Current Affairs, Indian Legal History, Legal Maxims, Medical Jurisprudence, Basic Computer Operation, Legal Phraseology.

Part-2 (Language)

50 Marks

- (i) Essay in English;
- (ii) Precis writing in English;
- (iii) Translation of Hindi to English and English to Hindi specially containing the legal phrases;

Paper No. 2 100 Marks

The questions will be restricted to the filed concerning :-

(1)	Civil Law	40 Marks
(2)	Criminal Law	40 Marks
(3)	Constitutional Law	20 Marks

Paper No. 3

(1)	Indian Evidence Act, 1972	30 Marks
(2)	The Code of Civil Procedure, 1908	30 Marks
(3)	Code of Criminal Procedure, 1973	30 Marks
(4)	Legal Drafting, i.e. Framing of Charges, Issues and Judgment writing, etc.	10 Marks

Viva-Voce 100 Marks

APPENDIX "C"
[See Rule 19]
Syllabus for limited Competitive Examination

Paper No. 1	100 Marks
(1) Civil Law	30 Marks
(2) Criminal Law	30 Marks
(3) Constitutional Law	20 Marks
(4) Procedural Law	20 Marks
Paper No. 2 (Language)	50 Marks
(1) English Essay writing.	
(2) Translation of Hindi to English and English to Hindi Specially containing the legal phrases.	
(3) Precis writing in English	
Viva-Voce	50 Marks

APPENDIX "D"
[See Rule 28]
Scales of Pay for Higher Judicial Service

(1) District Judges (Entry Level)	₹ 16750-400-19150-450-20500
(2) District Judges (Selection Grade)	₹ 18750-400-19150-450-21850-500-22850
(3) District Judges (Super Time Scale)	₹ 22850-500-24850

By Order,

NRIP SINGH NAPALCHYAL,
Principal Secretary.

THE UTTARAKHAND HIGHER JUDICIAL SERVICE (AMENDMENT) RULES, 2011

PREAMBLE

In exercise of the powers conferred by Article 233 read with proviso to Article 309 of the Constitution of India, the Governor is pleased to accord sanction to make the following rules with a view to amend the Uttarakhand Higher Judicial Service Rules, 2004--

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1. Short title and commencement.--

(1) These rules may be called the Uttarakhand Higher Judicial Service (Amendment) Rules, 2011.

(2) They shall come into force w.e.f. 1-1-2011.

2. The word "Uttarakhand" to be read instead of "Uttaranchal".--

In the Uttaranchal Higher Judicial Service Rules, 2004 hereinafter referred to as principal rules, the word "Uttarakhand" to be read instead of "Uttaranchal".

3. Amendment of clauses (a) and (b) Rule 6.—

In the said rules for the existing clauses (a) and (b) of Rule 6, set out in Column 1 below, the rule as set out in Column 2, shall be substituted, namely--

4. Amendment of sub-rule (2) of Rule 22.—

Column 1	Column 2
Existing clause	Clause as hereby substituted
"(a) Fifty per cent by promotion by amongst the Civil Judges (Senior Division) on the basis of principle of merit-cum-seniority."	"(a) Sixty-five per cent by promotion from amongst the Civil Judges (Senior Division) on the basis of principle of merit-cum seniority."
"(b) Twenty-five per cent by promotion strictly on the basis of merit through limited competitive examination of Civil Judges (Senior Division) having not less than five years service as Civil Judge (Senior Division)."	"(b) Ten per cent by promotion strictly on the basis of merit through limited competitive examination of Civil Judges (Senior Division) having not less than five years service as Civil Judge (Senior Division)."

In the principal rules for the existing sub-rule (2) of Rule 22, set out in Column 1 below, the rule as set out in Column 2, shall be substituted, namely--

Column 1	Column 2
Existing sub-rule	Sub-rule as hereby substituted
<p>"2. Appointment to the service shall be made on 4 point roster system, the first and second vacancies shall be filled from the promotion of the officer of the Uttaranchal Judicial Service, the third vacancy shall be filled up from the officers by competitive examination of Uttaranchal Judicial Service, the fourth vacancy shall be filled from the list of direct recruits (and so on)."</p>	<p>"(2) Appointment to the service shall be made on a 20 point roster with two blocks of 10 posts each. In the first block of 10 posts, the first 6 posts shall be filled up from those appointed under Rule 6(a); and the next 3 posts from those appointed under Rule 6(c), and the last post from those appointed under Rule 6(b). In the second block of 10 posts, the first 7 posts shall be filled from those appointed under Rule 6(a); the next 2 posts from those appointed under Rule 6(c); and the last post from those appointed under Rule 6 (b)."</p>
